

REMARKS

Claims 7, 22 and 30 have been amended. Claims 1-6, 10-20 and 24-29 were canceled without prejudice or disclaimer by prior amendment. New claims 33-35 have been added. Accordingly, claims 7-9, 21-23 and 30-35 are now pending in this application.

Information Disclosure Statement

The Information Disclosure Statement filed on March 27, 2002, included two sheets of PTO Form-1449. However, in the Office Action mailed on September 9, 2004, only the first sheet was received bearing the Examiner's initials, while the second sheet has not yet been received. Accordingly, Applicants respectfully request that the Examiner initial and return a copy of the second Form-1449 sheet (this sheet includes only one reference cited thereon, namely EP683501, published 11/22/95). If this sheet is missing from the application file, the Examiner is urged to contact the undersigned for a copy.

35 U.S.C. § 112

Claim 22 has been amended to delete the reference to "the step 4".
Accordingly, the rejection of claim 22 under 35 U.S.C. § 112 should be withdrawn.

35 U.S.C. § 103(a)

Claims 7-9, 21-23 & 30-32 stand rejected under 35 USC §103(a) as being unpatentable over Kusunoki et al. (JP11-120898) (hereafter "Kusunoki"). These rejections are traversed as follows.

The invention recited in the present claims includes a feature that the thin film electrode of the bus electrode is formed integrally with the top electrode. The expression "formed integrally" means that a certain section of an integrally formed (in the same procedure) component serves as the top electrode and another section of the same serves as the thin film electrode. (See, e.g., page 21, last paragraph of the specification.) An advantage of this feature is that it simplifies the structure and the method of manufacturing a device (electron emitter or a display device).

The Examiner contends that Kusunoki discloses forming the thin film bus electrode (15A) and the top electrode (13) with the same material. However, Kusunoki simply lists a set of materials that may be used for each component, and while the sets of materials for the two components include some of the same substances, the materials listed are not all the same, and there is certainly no disclosure or suggestion that the two electrodes should be formed using the same material or integrally in the same procedure. (Please see Col. 8 lines 21-47 and Col. 9 lines 6-15 of USP 6,617,774 to Kusunoki, corresponding to paragraphs 26 & 30 of JP 11-120898 cited by the Examiner.)

Thus, as Kusunoki does not disclose using the same material for the two components, there is an inventive leap from Kusunoki to "integrally form" the thin film

electrode and the top electrode as in the presently claimed invention. The Examiner states that "forming in one piece which has been formed in two pieces and put together involves only routine skill in the art," citing *Schenck v. Norton Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). However, this is a gross generalization that misrepresents the actual holding of *Schenck*, wherein the Federal Circuit upheld the patentability of the claims because the inventor in *Schenck* eliminated the need for an element, thereby showing insight that was contrary to the understandings and expectations of the art. This is similar to the present case wherein the two electrode portions are formed integrally, rather than with the separate steps and materials used in the prior art designs.

Furthermore, when making an obviousness rejection, official notice and generalizations unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known or common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be capable of such instant and unquestionable demonstration so as to defy dispute.

Such is not the case here. It would take a realization that the two components serving different purposes could be formed integrally, while still enabling the different sections of the integrally formed section to serve their original purposes. Also, there is a difference between "forming two pieces and putting them together" and

"integrally forming" as one piece two components which serve different functions and which are formed separately in the prior art. Claims 7 and 30 have been amended to emphasize that the electrodes are formed integrally. Claim 21 is already clear on this point based on the last paragraph. For the reasons set forth above, these claims are patentable over the art of record taken singly, or in combination.

Additionally, new claims 33-35 have been added to further claim the invention. These claims are supported, e.g., at page 20, lines 8-16 of the specification, and also patentable over the art of record.

Conclusion

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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